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COMMITTEE ON THE RIGHTS OF THE CHILD

First session

SUMMARY RECORD OF THE 7th MEETING

Held at the Palais des Nations, Geneva,
on Thursday, 3 October 1991, at 10 a.m.

Chairman: Mrs. BADRAN

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Adoption of the rules of procedure (continued)

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The meeting was called to order at 10.15 a.m.

ADOPTION OF THE RULES OF PROCEDURE (agenda item 4) (continued) (CRC/C/L.1)
Rule 68 (continued)

The CHAIRMAN said she had gained the impression that the Committee would not be inclined to reject a report completely and to request the State party concerned to submit another report. The members seemed to agree that, although the report might not be sufficient, it would constitute the beginning of a dialogue between the State party and the Committee, which could then request additional information.

She therefore invited the members to consider the amendment proposed by Miss Mason that rule 68 should consist of only one paragraph, which would read: "If, in the opinion of the Committee, a report submitted by a State party pursuant to article 44 of the Convention does not contain sufficient information, the Committee may request that State to furnish an additional report or additional information, indicating the time-limit within which such additional report or information should be supplied".

Mrs. CREYDT (Centre for Social Development and Humanitarian Affairs), referring to the practice in the Committee on the Elimination of Discrimination against Women, said that, at its first session, the Committee had considered a great many reports and had found that they were not very informative. It had therefore requested the Governments of the States parties concerned to provide additional information. Some Governments had not responded, while others had submitted information that was not in keeping with the Committee's request. The Committee had therefore authorized the Chairman to write to the Governments concerned asking for the specific information desired by the Committee. That had solved some of the problems the Committee faced. Another initiative taken by the Committee was to request the secretariat to provide additional information from United Nations sources in order to enable it to measure the progress made in the implementation of the Convention.

The CHAIRMAN said, that if she heard no objection, she would take it that the Committee agreed to adopt rule 68, as amended by Miss Mason.

Rule 68, as amended, was adopted.

Rule 69

The CHAIRMAN, referring to a suggestion by Mrs. SANTOS PAIS, said that, if she heard no objection, she would take it that the Committee agreed to consider rule 69, together with rule 34, at a later stage.

It was so decided.

Rule 70

Mrs. SANTOS PAIS said that rule 70 was of great importance for the Committee's work and that, in her opinion, it dealt with two different situations. The first, covered by paragraphs 1 and 2, was that the Committee

might make suggestions and recommendations on the implementation of the Convention by the reporting State. Where the Committee considered that the report was not sufficient, it could also make suggestions and recommendations taking that fact into account.

However, under article 45 (d) of the Convention, it was also possible for the Committee, following the example of other committees, to make suggestions and recommendations of a general nature, taking advantage of the experience it had gained in considering reports submitted by States parties, as well as the experience of specialized agencies, United Nations organs and other competent bodies. In her opinion, that kind of general recommendation could promote better understanding of the Convention and of the role of the Committee. She therefore thought that rule 70, paragraph 3, should be amended to make it clear that, in addition to reports by States parties, information which the Committee had received from specialized agencies and other competent bodies might also be taken into consideration in recommendations of a general nature.

Mr. HAMMARBERG said it was true that article 45 (d) of the Convention contained a description of suggestions and general recommendations that could be directed both to the State party concerned and to all States parties. However, he thought that the drafters of the rules of procedure had taken that into account because rule 72 referred precisely to the general comments outlined by Mrs. Santos Pais. In his opinion, it was preferable not to include the two kinds of comments in the same rule. The point raised by Mrs. Santos Pais could be discussed when the Committee took up rule 72.

Mrs. EUFEMIO, referring to rules 70 and 72, said that, if the Committee decided that general comments could lead to suggestions and recommendations as well, the two rules could be combined. She would welcome clarification from the secretariat concerning the idea behind the two rules.

Mrs. KLEIN (Centre for Human Rights) said that the underlying premise was that the Committee might wish, on the basis of its consideration of a number of reports by States, to make comments on specific articles of the Convention. It might find that quite a few reports lacked detailed information on certain articles and might therefore wish to give an interpretation of those articles in the light of all the reports it had considered with a view to assisting all States parties in the preparation of reports and the implementation of the Convention.

Mrs. SANTOS PAIS, replying to a question raised by the CHAIRMAN, suggested that rule 70, paragraph 3, should reflect the introductory phrase of article 45 of the Convention and be drafted along the following lines: "In order to foster the effective implementation of the Convention and to encourage international cooperation in the field covered by the Convention, the Committee may, pursuant to article 45 (d) of the Convention, make suggestions and recommendations of a general nature". It would thus be clear that paragraph 3 was concerned not with bilateral recommendations, but with general recommendations. However, if the members of the Committee thought that paragraph 3 was sufficiently clear, she would not press her point.

Mr. HAMMARBERG said he had understood article 45 (d) of the Convention to cover both comments on specific reports by States parties and general comments. If the members divided the two rules into one on reports by States parties and the other on general comments, rule 70, paragraph 3, should relate to comments and recommendations concerning a State party's report. The fact that it mentioned general recommendations did not mean that it involved general comments within the meaning of rule 72 because the term "general recommendations" was used in rule 70, paragraph 1. In his opinion, rule 70 related to the Committee's reaction to a State party's report and the more general comments were dealt with in rule 72. If that was the case, the Committee could adopt rule 70 and then decide whether it wished to include the provision mentioned by Mrs. Santos Pais when it discussed rule 72.

Mr. KOLOSOV said that the Committee must have the authority to make suggestions to any of the States parties. It must also be able to address general recommendations to any of the States parties.

In his opinion, the general comments mentioned in rule 72 were not the same as specific suggestions or recommendations of a general nature, but a reflection of an interpretation of any article of the Convention or of any situation in the world connected with the rights and duties embodied in the Convention.

The Committee should make it clear that, with regard to rule 70, its suggestions and general recommendations were of a dual nature and could be addressed to individual States and to States parties in general. With regard to rule 72, he thought that the general comments should be addressed to the entire international community.

Mr. HAMMARBERG said that general comments promised to be most useful in the Committee's work, as they were for the Human Rights Committee. Rule 72 was therefore important and should be carefully worded. He proposed the establishment of a working group to ensure that rules 70 and 72 covered the possibility for the Committee fully to develop general comments and to hold a detailed dialogue with Governments on the situation in their countries.

Mr. MOMBESHORA said he believed that the two rules should be separate. He proposed that the word "comments," should be added before the word "suggestions" in the second line of rule 70, paragraph 3.

Mrs. EUFEMIO said that, after hearing the secretariat's clarification of rule 72, she was convinced that it was important and should be separate.

The CHAIRMAN said she believed it was now clear that rule 72 referred to the Committee's general comments for the purpose of clarifying the articles of the Convention. She suggested that the Committee should adopt Mr. Hammarberg's proposal that the adoption of rule 70 should be deferred pending further discussion and the redrafting of the rule by a working group, which might be composed of Mrs. Eufemio, Mr. Hammarberg, Mrs. Santos Pais, Mr. Mombeshora and Mr. Kolosov.

It was so decided.

Rule 71

Mr. HAMMARBERG said that rule 71 referred to one of the Committee's most difficult tasks. No other rules of procedure contained a provision for transmitting requests for assistance from States parties. To determine how that was to be done meaningfully, more discussion was necessary. The Committee should not become a mere mailbox for aid requests, but did it have the competence to screen requests? What type of assistance should be given to Governments? Close cooperation with the specialized agencies would be needed.

After a discussion in which Mgr. BAMBAREN GASTELUMENDI, Mrs. EUFEMIO, Mr. HAMMARBERG, Mr. KOLOSOV and Mrs. SANTOS PAIS took part, the CHAIRMAN suggested that the adoption of rule 71 should be deferred pending further discussion among the members and between the Committee and other specialized bodies.

It was so decided.

Rule 72

Mr. KOLOSOV noted that the Working Group had received some guidance from the members regarding rule 70, but not rule 72. In particular, the idea that general comments should also be included in the Committee's reports to the General Assembly should be repeated in rule 72. He also pointed out that the purpose of the general comments was not only to assist States parties in fulfilling their reporting obligations, but to assist them in fulfilling their obligations under the Convention.

Mrs. EUFEMIO noted that the comments she had made in connection with rule 65 also applied to rule 72.

The CHAIRMAN said that, if she heard no objection, she would take it that the members agreed to defer the adoption of rule 72 pending the redrafting of rules 70 and 72 by the working group.

It was so decided.

Mr. HAMMARBERG proposed that a rule should be added stating that the consideration of a State party's report must appear on the agenda of the first session following the submission of the report.

It was so decided.

Rule 73

Mr. HAMMARBERG said that rule 73 was very bureaucratic and had to be implemented on a selective basis. It might thus be desirable to broaden it to include studies not provided for in the Convention. He therefore proposed that the following second paragraph should be added: "The Committee may as well at any time request studies from the specialized agencies and other bodies with appropriate and relevant experience". The Committee would then have the possibility of seeking contributions from sources other than the Secretary-General.

Mrs. SANTOS PAIS said that she endorsed Mr. Hammarberg's proposal. There had been a reference to that idea at the May 1991 meeting and it was worth pursuing, since both types of contribution would be valuable.

Mrs. EUFEMIO said that article 45 (a) of the Convention might be interpreted as providing for such contributions.

Mr. HAMMARBERG said that the Committee should also consider the possibility of contributions from individual experts and bodies with which it did not have pre-established relations.

Mrs. KLEIN (Centre for Human Rights) said that there was a precedent in the Committee on Economic, Social and Cultural Rights, which devoted one day of its sessions to oral presentations by, and an exchange of views with, individuals, non-governmental organizations and experts from other bodies. So far, however, no specific studies had been requested.

Mrs. EUFEMIO asked whether individual experts would not be covered by the term "other competent bodies" in article 45 of the Convention.

Mgr. BAMBAREN GASTELUMENDI said he agreed with the proposal that the scope of possible contributions to the Committee's work should be expanded, particularly in view of the serious problems affecting children which might arise on a regional or interregional scale.

Mrs. SANTOS PAIS said that a broad interpretation of article 45 of the Convention should not rule out the inclusion of a second paragraph in rule 73, as suggested.

The CHAIRMAN said that the Committee should consider the financial implications of requests for studies by individual experts.

Mrs. KLEIN (Centre for Human Rights) said that studies undertaken in accordance with rule 73 would be subject to the relevant regulations. If a second paragraph was added to the rule, any question of honorariums would be subject to approval and financing.

The CHAIRMAN suggested that the Committee should retain the original wording of rule 73 as a first paragraph and add a second paragraph, to read: "The Committee may at any time invite studies from specialized agencies or other bodies with relevant and appropriate experience". She asked whether the Committee considered that individual experts should be referred to specifically.

Mr. KOLOSOV said that reference should be made to individual experts in a third paragraph, as it would be for that category that the question of financing would arise.

Mr. HAMMARBERG reminded the Committee that the main purpose of its first session was to shape the rules of procedure in such a way as to enable it to perform the difficult task entrusted to it. To do so, it must clearly define its needs.

The CHAIRMAN said that the Committee had three possibilities for the undertaking of studies: (i) it could recommend to the General Assembly to request the Secretary-General to undertake studies; (ii) it could invite specialized agencies and competent bodies to undertake studies; and (iii) it could request individual experts to carry out studies.

Mr. KOLOSOV said that he endorsed Mr. Hammarberg's view, but stressed the need to draft a third paragraph very carefully. It would be harmful for the Committee to agree to a rule which could not be implemented.

Mrs. SANTOS PAIS said that the principle underlying the rule was that the Committee could either seek assistance in the form of the financial resources of the United Nations and the action of the Secretary-General or it could try to find other sources for the preparation of specific studies. Consequently, the original wording of rule 73 should be retained and a flexibly worded second paragraph should be added.

Mr. HAMMARBERG proposed that the Committee should adopt the following second paragraph, which would enable it to request studies from either individuals or from groups without going through the General Assembly: "The Committee may also invite the submission of studies from other sources on topics it may specify".

It was so decided.

Rule 73, as amended, was adopted.

Rules 74 and 75

Rules 74 and 75 were adopted.

Rule 14

The CHAIRMAN invited the Committee to consider the following revised version of rule 14 prepared by the drafting group:

"Rule 14

1. If a member of the Committee dies or resigns or declares that for any other cause he or she can no longer perform his or her Committee duties, the Chairman of the Committee shall notify the Secretary-General, who shall then declare the seat of that member to be vacant.

2. If, in the unanimous opinion of the other members, a member of the Committee has ceased to carry out his or her functions for any cause other than absence of a temporary nature, the Chairman of the Committee shall notify the Secretary-General, who shall then declare the seat of that member to be vacant.

3. Pursuant to paragraphs 1 and 2, the Secretary-General shall request the State party which had nominated that member to appoint another expert from among its nationals within two months to serve for the remainder of his or her predecessor's term.

4. The name and the curriculum vitae of the expert so appointed shall be transmitted by the Secretary-General to the Committee for approval by secret ballot. Upon approval of the expert by the Committee, the Secretary-General shall notify the States parties to the Convention of the name of the member of the Committee filling a casual vacancy.

5. Except in the case of a vacancy arising from a member's death or proven disability, the Secretary-General and the Committee shall act in accordance with the provisions of paragraphs 1, 3 and 4 of this rule only after receiving, from the member concerned, written notification of his or her decision to cease to function as a member of the Committee."

Mr. KOLOSOV said that he was generally satisfied with the revised text of rule 14, but thought it should be made clear in paragraph 4 that, if a secret ballot on the appointment of an expert resulted in an even split among the votes, the arrangements for handling inconclusive votes described in rule 61 would apply.

Mr. HOUSHMAND (Representative of the Secretary-General) said that, in fact, if a candidate failed to win the necessary majority of votes, rule 14, paragraph 3, which provided that the Secretary-General would request the State party to nominate another expert, would apply.

Rule 14, as amended, was adopted.

Footnote to rule 52

The CHAIRMAN invited the Committee to consider the following revised version of the footnote to rule 52:

"Footnote to rule 52

The members of the Committee expressed the view that its method of work normally should allow for attempts to reach decisions by consensus before voting, provided that the Convention and the rules of procedure were observed."

The footnote to rule 52, as amended, was adopted.

Rule 54

The CHAIRMAN invited the Committee to consider the following revised version of rule 54:

"Rule 54

Unless otherwise decided by the Committee, and subject to rules 14 and 60, the Committee shall vote by a show of hands. Any member may request a roll-call, which shall be taken in the English alphabetical order of the names of the members of the Committee, beginning with the member whose name is drawn by lot by the Chairperson."

Rule 54, as amended, was adopted.

Rule 65

The CHAIRMAN invited the Committee to consider the following revised version of rule 65:

"Rule 65

1. So that the Committee may have a comprehensive understanding of the implementation of the Convention in the States parties concerned, States parties shall submit reports, through the Secretary-General, pursuant to article 44 of the Convention.

2. States parties shall submit such reports within two years after the entry into force of the Convention for the State party concerned and thereafter they shall submit subsequent reports every five years and such additional reports or information in the intervening period as the Committee may request.

3. The Committee shall, through the Secretary-General, indicate to the States parties the form and contents of reports or information to be supplied to the Committee (in accordance with paragraphs 1 and 2 of this rule)."

Mr. MOMBESHORA, referring to paragraph 1, suggested that the words "in the States parties concerned" should be replaced by the words "by the States parties concerned".

Mrs. SANTOS PAIS said that those words had been taken directly from the Convention.

Mrs. EUFEMIO pointed out that the wording of paragraph 2 raised a problem that the Committee had dealt with earlier: it seemed to be dictating the behaviour of States parties, whereas it was the Convention, and not the Committee's rules of procedure, that defined the obligations of States. In her opinion, paragraph 2 should be deleted.

Mrs. SANTOS PAIS said that paragraph 2 brought out two important points and should therefore be retained. The first was that the Committee expected to receive periodic reports from States parties. The second was that information might be required of States parties in the periods between periodic reports.

The CHAIRMAN said that her recollection of the discussion on rule 65 was that, even though the subjects covered in paragraph 2 were spelt out in article 44 of the Convention, it had been considered useful to repeat those elements in the rules of procedure, since the reporting procedure was so central to the Committee's work.

Mr. KOLOSOV said that he understood the concerns raised by Mrs. Eufemio and thought that they might be allayed if the words "States parties shall submit" were replaced by the words "The Committee will receive".

Miss MASON pointed out that, if that amendment was adopted, a similar amendment would have to be made to paragraph 1.

The CHAIRMAN suggested that the Committee should continue its consideration of the revised version of rule 65 at its next meeting.

It was so decided.

The meeting rose at 1.05 p.m.